

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CHERYL GEARY-ROTHENBERG,)
on behalf of herself and all others similarly situated,)

Case No: 1:18-cv-00334-CCR

Plaintiff,)

v.)

ABILITY RECOVERY SERVICES, LLC,)

Defendant,)

**AFFIDAVIT OF
STUART D. WERBIN, ESQ.
IN SUPPORT OF REQUEST TO
ENTER DEFAULT JUDGMENT**

STUART D. WERBIN, ESQ., hereby affirms as follows:

1. I am an attorney at law in the State of New York and counsel for the Plaintiff, Cheryl Geary-Rothenberg, in the above-captioned litigation. As such, I am familiar with all of the facts set forth below.
2. I submit this Affidavit in support of Plaintiff's request for the Entry of Default Judgment against Defendant Ability Recovery Services, LLC, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure.
3. This action was commenced on or about, March 13, 2018, when Plaintiff filed a Complaint against Defendant. **(See Docket Entry Number 1)**
4. Defendant, which is the party against whom judgment is sought, is not an infant or an incompetent person.
5. On April 30, 2018, Defendant was served with the summons and complaint by personal service. A true and correct copy was filed with the Court. **(See Docket Entry Number 4)**. Sharon Behnke accepted service of the summons and complaint at Ability Recovery Services, LLC's address at 284 Main St., Dupont, PA 18641.

6. More than twenty-one (21) days have elapsed since the date on which service of the Summons and Complaint was effective.
7. Neither Plaintiff nor the Court has granted Defendant any extension of time to respond to the Complaint.
8. Defendant has failed to answer or otherwise respond to the Complaint, or serve a copy of any answer or other response upon Plaintiff's attorneys of record.
9. Based on the above, Plaintiff respectfully requests that default judgment be entered against Defendant.
10. This action seeks judgment for the amount of \$5,725.00, as shown by the annexed Affidavit of Time and Expense, which is justly due and owing, and no part of which has been paid except as therein set forth.
11. The disbursements sought to be taxed have been made in the action or will necessarily be made or incurred therein.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true.

Dated: December 13, 2018

Respectfully Submitted,

Stuart D. Werbin
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